

FAO LAND TENURE NOTES

2

Improving gender equity in access to land





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FAO Land Tenure Notes

FAO's Land Tenure Notes provide information on land tenure in a format that can be used by grass-roots organizations which work with small farmers and others in rural communities. Improving secure access to land by the rural poor is essential in order to reduce poverty and hunger and to promote sustainable rural development. Improving people's knowledge of their rights to land is an important part of making rights real, thereby allowing people to improve their livelihoods.

The Land Tenure Notes are complemented by the FAO Land Tenure Studies and the FAO Land Tenure Policy Series.

More information is available at:

http://www.fao.org/sd/in1_en.htm

http://www.fao.org/sd/LTdirect/ltstudies_en.htm

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Preface

Securing the rights of both women and men to land is essential for sustainable rural development, social equity and economic growth. Today women are the major agricultural producers at the household level. Yet their rights are often marginalized and can be lost in development projects unless gender-inclusive practices are implemented.

This guide focuses on gender relations and how their structure may affect access to land. It is designed primarily to support non-governmental organizations (NGOs) but may be useful for local government officials and others who work with farmers and rural households. The guide provides information on “good practices” for gender inclusion. It presents information that NGOs and project staff can share so that people can have a better understanding of their rights to land.

Two important questions to answer are “what do we mean by access to land” and “why is gender important?” This guide begins with these questions and with some of the answers that can be adapted to local situations. Access to land can mean many things in different societies and its complexity is often underestimated in projects designed for the rural poor.

Gender issues are sometimes controversial because they are rooted in culture, tradition, religion, and various sources of law. Men and women are often not well informed about their legal rights; neither do they usually understand the inequities and inefficiencies related to gender and access to land. Being able to answer these questions is a starting point in developing appropriate strategies to improve access to land for both men and women.

The guide addresses some of the strategies that can be used to improve gender equity in access to land by evaluating the current situation to determine whether gender issues exist; by informing people of their rights to land; and by working to empower the marginalized.

The guide concludes by outlining strategies that can be used in land tenure projects such as land reform and land titling and registration. The main objective of these strategies is to ensure that gender and access to land are properly addressed, and that all members of a community have an opportunity to participate and have their rights recognised and protected.

The information in this guide is based on FAO's Land Tenure Studies 4: "Gender and access to land".

This document is available at:

http://www.fao.org/sd/2003/IN07013_en.htm. ■

Introduction

Throughout history, rights to land have been recognized as a source of social status, wealth and power. Land has great cultural, religious and legal significance, and is the basis for food production, shelter and economic activities. Providing secure access to land is an essential part of improving rural livelihoods.

In most societies access to land has favoured certain individuals and groups at the expense of others. Women are one of the groups that often have fewer and weaker rights to land because of biases in formal law, in customs and in the division of labour in society.

The rights to land of vulnerable members of society can be threatened by development projects if gender relations are not properly considered. Land tenure projects, such as land reform or land titling and registration, may result in the title of a family's land being registered in the name of one male member. Projects to improve the land, for example by providing irrigation, may increase the value of marginal land used by women to the point that the land is claimed by men in the community.

Providing gender-inclusiveness in access to land can benefit families, communities and nations through:

- increased investment in land and food production;
- improved family security during economic and social transitions;
- increased economic opportunities;
- better housing;
- improved land management.

NGOs can play an important role in working for more equitable access to land by women and others who are marginalized. ■

What is access to land?

What are rights to land?

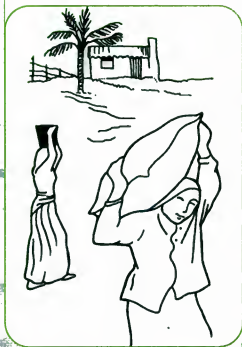
Access to land involves having the right to do certain things with the land. Access may include the rights to:

- ⊗ use (and not to use) the land;
- ⊗ decide how the land is used;
- ⊗ enjoy what is produced from the land (e.g. food, shelter or profits);
- ⊗ exclude people from the land;
- ⊗ transfer land rights through gift, inheritance, sale, or lease;
- ⊗ use land as security for loans;
- ⊗ use other resources related to the land.



Access to land is not just about ownership. There are many rights that may be held by different people in a parcel of land, and together they make up a complex bundle of rights similar to a bundle of sticks. Different rights to the parcel of land, such as the right to use the land through a lease, the right to travel across the land, or the right to use the fruit from certain trees, may be pictured as sticks in the bundle.

Rights to land may improve a person's social or economic status. They may bring other benefits such as participation in community councils, elections or schools, and access to credit, technological inputs and training. 🟩



© What are land tenure systems?

Access to land and its benefits are governed through land tenure systems. These determine what rights can exist and how the rights are distributed among individuals and groups.

Land tenure systems also define the responsibilities that people have with respect to their land and what restrictions may apply. For example, the right to use water in a stream crossing the land may include a responsibility of providing clean water to downstream users and a restriction of only withdrawing water during certain seasons.

Land tenure systems have evolved to meet the specific needs and constraints of each society. Thus systems vary from place to place, even within the same country, according to socio-economic, political, cultural and institutional contexts. Land tenure systems are also dynamic, changing over time to meet new situations. ■



◎ How are rights to land distributed within society?

The rules of land tenure reflect the structure of power and beliefs in society. People who are landless or who have weak rights to land are usually those without power. Disparities in rights may not be immediately apparent in the rules. For example, in a common property resource system there may be the impression that all members of the community have equivalent rights, but a closer analysis may show disparities between genders.

In some societies, women cannot hold rights to land independently of their husbands or male relatives. Their rights are also often different from those of men.

Many countries do have legislation or constitutions that recognise equal rights of both men and women, including rights to land. The formal rules, however, are not always observed in practice.



Despite legislated equal rights, groups such as rural women still may be at a disadvantage in defending their rights. There may be a lack of awareness, capacity or will to implement and enforce the formal legal rules at different levels, especially for those who are financially or politically weaker than others, or when local customs conflict with the legislation.

Changes to the ways in which people gain access to land may thus change the power structure within a family, within a community, or within a nation. The promotion of gender equity may be in direct contrast with the “traditional way of doing things”.

Without changes in the attitudes of much of the population, traditional practices are likely to continue regardless of the formulation of new policies or the enactment of new legislation. Advocacy of more equitable land rights is important in any effort to transform institutions and practices relating to access to land. ■

Why is gender important?

◎ Why is gender equity an issue today?

Recent changes have sometimes increased inequities in regard to access to land. Factors include:

- ◎ Political and legal structures may have created conflicts between customary practices and formal law with respect to women's land rights.
- ◎ An increasing number of households are now headed by women due to migratory labour, divorce, illness, desertion, war and violent conflict. Traditional land tenure systems may not recognize their rights or the women may not be able to afford legal options to resolve disputes. Unequal inheritance rules may prevent women from having the resources to take advantage of opportunities.
- ◎ Women in formal, religious or customary marriages may not have official documentation of their marital status. As a result they may be excluded from development projects.
- ◎ Better education for rural women and men is leading to career opportunities that often require financing. Credit is becoming increasingly important to build a house, start a business, or obtain farm inputs. Without clear, documented land rights, people cannot access credit. Women are less likely to have their rights formally recognised.
- ◎ Women are less likely to invest in their fields if they might be evicted at any time. ■



◎ Gender equity and social development

Good governance depends on recognizing all stakeholders and respecting their rights. Therefore gender equity is an increasingly important international and national issue.

Gender equity in rights to land can increase women's power in social and political relationships. Providing secure rights to land for women can increase their social and political status, and improve their sense of self-esteem, confidence, security and dignity. Land rights often lead to other benefits in society including participation in community decision-making, elections, and other socio-economic activities. Without gender equity in land, 50 percent or more of rural stakeholders may not have an effective voice in national or community governance, and may be excluded from development projects.

Having rights to land may help to empower women in their negotiations with other household members, and with the community and society at large. ■



◎ Gender equity and economic development

Improving the situation of women as well as men is necessary for sustainable rural development. Almost all countries in the world have ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women. One specific provision is that rural women should have the right:

to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.

The rights to land that women have are often not documented but are informal. Without documentation, they do not have equal access to credit or facilities. Care must be taken to ensure that their rights are not misinterpreted, forgotten, or erased in land projects.

Efficient production is difficult when those who have responsibility for using the land have limited rights to control it. This is often the case in female-headed households where the rights of women do not have formal recognition, yet these women may be the sole provider of food for their dependents. Today, many farm operations require external financing and access to credit is a potential benefit of formalizing land rights. But if women's rights are not formally recognised, women must continue to depend on having access to credit through male family members. Thus even if women are the primary land user and household head, they may not be able to use their land to the greatest benefit. ■

Promoting gender inclusion in society

⊙ Evaluating gender equity

Actions to improve gender equity in access to land should be based on a good understanding of the situation. The evaluation should identify areas of gender equity as well as inequity. It may be possible to make greater progress by building actions on strengths that already exist.

An evaluation process could address issues such as:

- ⊙ Does formal legislation support or limit the rights to land of women and men?
- ⊙ Does customary law support or limit the rights to land of women and men? How are customary rights (e.g. seasonal rights to harvesting and grazing) held by women recognized?
- ⊙ Are there conflicts between customary law and formal legislation, e.g. with regard to marital rights and inheritance?
- ⊙ Are women included as decision-makers in their households, farmers' organizations, local governments and at the national level?
- ⊙ Are land titles and other documents given in the names of men and women, or only in the name of the head of household?
- ⊙ Do courts and community tribunals provide effective protection of rights of both women and men?
- ⊙ Do women and men have equal opportunity to access legal assistance, credit, and farm inputs?

✦ Improving gender equity in access to land

- What changes are taking place in land tenure as a result of migration, HIV/AIDS, etc., and what effect are they having on the rights of women and men?
- Are people who implement land tenure policies aware that lack of a gender perspective in land tenure projects is a major obstacle for gender equity? Do they have appropriate knowledge of how to incorporate gender concerns into projects?
- Do women and men have equal opportunities to participate in all stages of development projects affecting their rights?



Information on the quality of the rights of women and men can be found in a number of sources, for example:

- ⊗ Formal legislation, regulations, civil and family codes at all levels of government;
- ⊗ Decisions of courts and other official tribunals;
- ⊗ Religious law;
- ⊗ Customary law, usually unwritten but agreed upon as being traditional for the area or the group;
- ⊗ Documents (e.g. deeds or certificates) and registers of rights and documents;
- ⊗ Studies and research on land or gender issues;
- ⊗ Experience of NGOs and local women's organizations;
- ⊗ Data and information on participation of men and women in land tenure and other development projects;
- ⊗ Discussion with rural women in focus groups or individual interviews. ■

🕒 Informing people of their rights

Laws that aim to empower people remain empty shells unless they are used. Often they remain underused because people are not aware of their rights. The rule of law is more effective when there are many people who understand their rights, and use and protect their rights under the law. NGOs can play an important role in informing men and women of their rights, and how to enjoy and protect them.

KNOW WHAT INFORMATION IS NEEDED:

It is important to know what rural communities understand about their rights and what they do not understand. Communities may need answers for questions such as:

- 🕒 what to do when someone with rights to land dies without a will;
- 🕒 what are women's rights under the law;
- 🕒 what is the relationship between customary or religious law and formal legislation;
- 🕒 what to do if the government wants to acquire their land.



PRESENT INFORMATION IN A RELEVANT WAY:

Different presentations may be needed for men and women. Women and men quite often have different interests and questions. For example, women may want to know what happens when a daughter, who has a right to the household land, leaves her family to marry. They may have questions on their right to inherit as a wife or daughter, and may be concerned about their rights in cases of divorce, abandonment or incapacity of their husband.

Where formal legislation does not match with customary law, presentations may be needed to explain to men why the change to legislation was made, and how that change will benefit the household as a whole.



USE DIFFERENT STRATEGIES TO PRESENT INFORMATION:

- Community meetings are effective as they allow the message to be tailored to the needs and interests of the audience. Separate meetings may be necessary for women because they are available at different times of the day from men. A separate meeting may also be needed when women are unable or unwilling to leave their children or attend public places where men meet. Some women may prefer that meetings are held first with men, because training for the women may be ineffective if men do not understand or agree to any changes to the law.
- Simple documents such as posters and comic books can be used effectively, for example, to show people how to use the land registration system, and they can be distributed in the registry office. A good distribution system is needed for other printed materials to ensure that they reach remote villages.
- Documentation on the problems that women face and the solutions that women have initiated can help others to understand their choices. Women may be isolated and be unaware that others share similar concerns and problems.
- Rural radio, such as question-and-answer shows, can be effective when the programmes are accurate, relevant to the actual needs of listeners, and creatively presented. ■



◎ Working to empower the marginalized

Informing people of their rights is an important part of helping people to protect and increase the security of existing rights. But sometimes this is not enough, and there is a need for reforms to extend the rights that women can acquire. Introducing reforms takes time and is not simple, but there are many examples in the world where changes have been introduced. Actions that can be taken to improve the understanding of the rights of men and women to land include the following.

IDENTIFY THE PROBLEMS:

- ◎ Identify policies, laws and cultural traditions that adversely affect access to land by women or men;



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- Collect data on access to land by men and women;
- Recognise that women do not constitute a single homogenous group with identical shared interests.

BUILD WIDE-RANGING SUPPORT:

- Identify who in government and civil society is working to improve gender equity, and build coalitions with them;
- Use national, regional and local organizations such as women's groups to obtain knowledge and to encourage the participation of women;
- Improve the knowledge of policy-makers and those who administer rights to land about the disparity between rights of men and women.

EXPLAIN THE PROBLEMS AND POTENTIAL SOLUTIONS:

- Prepare strategies to explain to policy-makers and land agencies what problems exist and what might be done;
- Find non-threatening examples of the issues to communicate the importance and benefits of gender equity;
- Lobby for the amendment of land legislation (including regulations and guidelines) that is not gender-sensitive and for the enforcement of gender-inclusive law;
- Lobby for amendments to family laws when such legislation disadvantages women (e.g. at the time of marriage, divorce, inheritance);
- Lobby to increase representation by women on Land Commissions and other decision-making bodies. ■

Promoting gender inclusion in land tenure projects

② Understanding the project requirements

Some land tenure projects seek to make changes to the way in which people gain access to land, e.g. through land reform. Other projects aim at making existing access to land more secure, e.g. through land titling and registration. NGOs can play an important role in helping to implement strategies to include gender in land tenure projects.

An early step is to understand what the project will include, and what it will not do. All projects have constraints. It may be possible to remedy some limitations such as:

- ② by working to amend part of a law or regulation that adversely affects gender equity;
- ② providing or collecting information on land rights at the local level;
- ② providing special forums for informing project participants of their rights;
- ② providing gender sensitization programmes to improve the knowledge of project workers of how to incorporate gender issues in their work.

Being effective in a project requires a constructive working relationship with partners, and particularly with the land agencies that are responsible for the implementation of the project. NGOs should make sure that project officials understand and appreciate the contribution that NGOs can make. ■

🕒 Collecting data to monitor the effects of the project

A major problem in trying to evaluate the different impacts of a project on women and men is that the data collected before, during and after the project often does not provide appropriate information related specifically to gender.

Many projects rely only on counting the number of titles in the names of men and women, but this gives only a partial picture. NGOs can help to evaluate and monitor projects effectively by looking at both the security of rights and types of rights held by women and men. Examples of gender-differentiated data that could be collected are:

CHARACTERISTICS OF THE LAND HOLDINGS FOR EACH GENDER:

- 🕒 size and location of land parcels;
- 🕒 use of the land holding;
- 🕒 labour and other inputs;
- 🕒 value in terms of productivity or market price;
- 🕒 beneficiaries of proceeds from the land.



LEGAL CHARACTERISTICS FOR EACH GENDER

- ⊗ rights granted by the formal law;
- ⊗ rights granted through custom;
- ⊗ comparison of formal and customary inheritance and divorce situations;
- ⊗ access to fair adjudication in cases of dispute.

ROLES AND RESPONSIBILITIES FOR EACH GENDER

- ⊗ division of labour;
- ⊗ rights to make decisions about land use, investment, and transfer;
- ⊗ proportions of household food and cash crops produced;
- ⊗ percentages of paid and unpaid labour. ■



🕒 **Assisting people to participate in the project**

NGOs can be effective in mobilizing people to participate in the project, for example, through the following actions.

INFORM PEOPLE OF THE PROJECT, AND OF THEIR RIGHTS:

- 🕒 Look for a variety of information sources and ensure that the information gathered represents the true picture at the local level, and not only what the formal law says.
- 🕒 Have the right message for both women and men and use the best media (e.g. community meetings, radio, newspapers), especially when illiteracy is high. Recognize that some women may not participate in open meetings and are more comfortable meeting with other women.

HELP TO ELIMINATE OBSTACLES TO PARTICIPATION:

- 🕒 Plan appropriate locations and schedules for meetings. Recognize that women may have different duties and financial resources that may affect their availability to participate.
- 🕒 Provide child care support or transportation to enable participation in meetings or training.
- 🕒 Help women to acquire the official documentation required for them to participate. ■

🕒 A quick checklist for evaluating and improving gender equity in land tenure projects

1. PARTICIPATION BY WOMEN AND MEN IN ALL ACTIVITIES

- 🕒 Does the project team have appropriate representation of men and women?
- 🕒 Does the project team understand and respect the need for gender equity, or has gender equity been marginalized as a "women's issue"?
- 🕒 Has the project team adopted specific provisions to ensure that the project recognises the differences in roles, priorities and needs of men and women?
- 🕒 How were beneficiaries contacted? Were the media and messages appropriate?
- 🕒 Do both women and men have the required official documentation to participate equally in the project, and if not how can that be remedied?
- 🕒 Do local women normally participate openly in public forums or should they be addressed separately?
- 🕒 Are there special issues with respect to scheduling or location that would improve participation by both men and women?

2. UNDERSTANDING THE RIGHTS MEN AND WOMEN HOLD

- 🕒 What rights do the formal laws provide?
- 🕒 What are the local customs or traditions (including those related to marriage, divorce and inheritance)?



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- Do the theoretical rights and practices differ from those that are actually in use and accepted?
- Do the customs or laws vary by location (e.g. rural and urban) or by ethnic group?
- Whose rights are recognized in formal documentation and registration processes? What is the impact of this in cases of death, divorce, or separation?
- Have all of the rights to secondary benefits of land been considered (e.g. water rights, grazing rights, access to credit, decision-making powers, and rights to informal land transfers)?
- What political, socio-economic, or environmental changes are occurring that may affect the rights of women and men differently now or in the future?

3. EVALUATING THE IMPACT OF INTERVENTIONS

- Has a baseline study been conducted to determine existing rights and issues before the project commences?
- Is there sufficient gender-disaggregated data to determine any gender differences?
- Is the sample size sufficient to demonstrate real differences or detect biases in the surveys?
- Who responded to questionnaires, meetings, or interviews and is there a gender bias?
- Have the results of studies been used to make appropriate modifications to the project design?
- Have men and women participated equally in the project and benefited from it?
- How can good (or bad) practices be identified in the project to determine how to make the project activities better?

4. MAKING EQUITY SUSTAINABLE

- ④ Have the local participants understood why gender equity is important?
- ④ Are there local examples of tangible benefits of gender equity policies to show households, communities, or future generations?
- ④ Can both men and women now participate equally in decision-making regarding land resources?
- ④ Do both men and women now have access to the credit, resources, training, and other services needed to make effective use of their land holdings?
- ④ Is there a process to monitor the project's impact on gender relations over time?



This guide on *Improving gender equity in access to land* has been prepared to support non-governmental organizations that are working to promote more equitable access to land for women and men in rural communities. Land has cultural, religious and legal significance, and is the basis for food production, shelter and economic activities. In most societies, access to land has favoured certain individuals and groups at the expense of others. Women are one of the groups that often have fewer and weaker rights to land.

The guide addresses gender relations and how their structure affects access to land. It provides some answers to the questions of "what is access to land" and "why is gender important". The guide presents strategies to improve gender equity by evaluating the current situation to identify what gender issues exist, by informing people of their rights to land, and by working to empower the marginalized. The guide concludes by describing strategies to ensure that gender and access to land are properly addressed in land tenure projects such as land reform and land titling and registration.

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